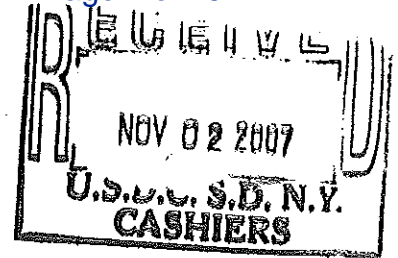


454-07/PJG/GMV
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JUDGE COTE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

'07 CIV 9723

PALOMAR MARITIME INC.,

07 cv _____ ()

Plaintiff

- against -

VERIFIED COMPLAINT

LIMANA EQUITIES INC., SOLANA
SHIPPING LTD., ZENON SHIPPING LTD.,
and BALEHILL TRADING S.A.,

Defendants

Plaintiff Palomar Maritime Inc. ("Palomar") by its attorneys Freehill, Hogan & Mahar, LLP, as and for its Verified Complaint against Defendants Limana Equities Inc., Solana Shipping Ltd., Balehill Trading S.A. and Zenon Shipping Ltd. (collectively "Defendants"), alleges upon information and belief as follows:

1. This is an admiralty and maritime claim within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure in that it involves a claim for the breach of a maritime contract of ship management. This case also falls under this Court's admiralty and maritime jurisdiction pursuant to 28 U.S.C. §1333, and this Court's federal question jurisdiction pursuant to 28 U.S.C. §1331 in that the action arises under the New York Convention on the Recognition and

Enforcement of Foreign Arbitral Awards, codified at 9 U.S.C. §201 *et seq.* and/or the Federal Arbitration Act, 9 U.S.C. §1 *et seq.*

The Parties

2. At all times relevant hereto, Plaintiff Palomar was and still is a foreign business entity duly organized and existing under the laws of a foreign country with an address at Kantharou 1 & Akti Miaouli 75, 18537, Athens, Greece. At all times relevant hereto, Plaintiff Palomar acted as the technical managers for three vessels – the M/T SIMPHONY, the M/T MONTE ROSSO and the M/T MONTE VERDE. (Attached hereto as Exhibits 1-3 are copies of the ship management contracts).

3. At all times relevant hereto, and upon information and belief, Defendant Limana Equities was the owner of the M/T SIMPHONY (formerly named the SIMPHONY M) (See Exhibit 1 – contract with Limana Equities), and was and still is a foreign business entity duly organized and existing under the laws of a foreign country with an address at Calle Aquilino de la Guardia No. 8, Panama City, Panama.

4. The M/T SIMPHONY was formerly owned by Marcus Shipping Ltd. with a registered office at 147/1 St. Lucia St., Valletta, Malta. (See Ex. 1- contract with Marcus Shipping). Defendant Limana Equities was a shareholder in Marcus Shipping Ltd.

5. At all times relevant hereto, and upon information and belief, Defendant Solana Shipping Ltd. was the owner of the M/T MONTE ROSSO (See Ex. 2), and was and still is a foreign business entity duly organized and existing under the laws of a foreign country with an address at 147/1 St. Lucio St., Valletta, Malta.

6. At all times relevant hereto, and upon information and belief, Kiparis Inc. acted as commercial operator of Defendant Solana Shipping Ltd. and as a paying or funding agent for

purposes of holding assets, receiving funds and/or transmitting funds in satisfaction of debts or obligations of Solana Shipping. Attached hereto as Exhibit 4 is a copy of the notice of Kiparis' appointment as an agent, and as also attached hereto Exhibit 5 is a copy of wire transfer details showing payments made by Kiparis on behalf of the M/T MONTE ROSSO.

7. Kiparis Inc. was and still is, upon information and belief, a foreign business entity duly organized and existing under the laws of a foreign country with an address at Calle Aquilino de la Guardia 8, Panama City, Panama (the same address as Defendant Limana Equities Inc.).

8. Kiparis Inc. was and still is, upon information and belief, a current shareholder of Defendant Solana Shipping, and acquired its shares from Marcus Shipping Ltd. who was the former owner of the M/T SIMPHONY and a former shareholder in the owner of the M/T MONTE ROSSO.

9. At all times relevant hereto, and upon information and belief, Defendant Zenon Shipping was the registered owner of the M/T MONTE VERDE and was and still is a foreign business entity duly organized and existing under the laws of a foreign country with an address at 147/1 St. Lucia St., Valetta, Malta. Zenon Shipping was a former shareholder of Solana Shipping (the owner of the M/T MONTE ROSSO), and Defendant Balehill Trading was or is a shareholder in Zenon Shipping.

10. Defendant Balehill Trading was and still is a foreign business entity duly organized and existing under the laws of a foreign country with an address at 24 De Castro Street, Wickhams Cay 1, Road Town, Tortola, British Virgin Islands.

11. Defendant Balehill Trading S.A. entered into the ship management contract with regard to the M/T MONTE VERDE as owner (See Ex. 3 hereto), and upon information and

belief, Balehill Trading is the current owner or disponent owner and/or commercial manager of the M/T MONTE VERDE.

12. In the alternative, upon information and belief, Balehill Trading acted as commercial operator of Defendant Zenon Shipping and as a paying or funding agent for purposes of holding assets, receiving funds and/or transmitting funds in satisfaction of debts or obligations of Zenon Shipping. Attached hereto as Exhibit 6 is a copy of wire transfer details showing payments made by Balehill on behalf of the M/T MONTE VERDE.

The Contracts At Issue

13. On or about January 10, 2006, Palomar as managers entered into ship management agreements with, respectively, Limana Equities as owners of the M/T SIMPHONY, Solana Shipping as owners of the M/T MONTE ROSSO, and Balehill Trading as owners of the M/T MONTE VERDE. Attached hereto as Exhibits 1-3, respectively, are copies of the ship management agreements.

14. When the management agreements were entered into, the commercial management (i.e. chartering) of all three vessels was within the control of Spectrum Trading and Shipping (STS) Inc. of Moscow, Russia, which acted as the Russian-based agent for all Defendants.

15. The commercial management of all three vessels was subsequently changed to Joint Tankers FZCO of Moscow, Russia, which acts as the Russian-based agent for all Defendants. Attached hereto as Exhibit 7 is a copy of the correspondence indicating the change from Spectrum to Joint Tankers.

16. When the management agreements were entered into, each of the Defendants declared the three vessels to be "Associated Vessels." (*See* Annex D to each agreement attached hereto as Exhibits 1-3).

17. The three vessels are operated in a common venture setting under the same commercial management, and there has been a disregard of corporate formalities between the three owning entities, including but not limited to the commingling of funds (i) through the knowledge and acquiescence by the owners of the M/T MONTE VERDE that funds allocated for the management of that vessel could be and were in fact later used for the management on the MONTE ROSSO and (ii) through the payment by Kiparis Inc. (the agent of Solana Shipping, owner of the MONTE ROSSO) of amounts owed under the management agreement for the SIMPHONY.

18. Further, there has been a lack of arms-length transactions between the Defendant vessel owners including but not limited to the owners of the MONTE VERDE assigning the positive balance owed under the management contract for that vessel to the owners of the MONTE ROSSO. There is no evidence demonstrating that any consideration was exchanged for the assignment, and Plaintiff submits that the assignment was a scheme, not supported by sufficient consideration, intended to allow the owners of the MONTE ROSSO to avoid or diminish their obligations to Plaintiff, but which conduct further demonstrates the Defendants' disregard of their corporate separateness.

19. In addition, there is a commonality of ownership and officers, including but not limited to (i) John Gauci Maistre who is a director of Solana Shipping and a director of Marcus Shipping (the prior owner of the SIMPHONY of which the current owner, Limana Equities, was a shareholder) and a director of Zenon Shipping (the registered owner of the MONTE VERDE of

which Defendant Balehill Trading is a shareholder); (ii) Ezequil Ruiz, Dilia de Diaz, and Lilian de Muschett who are directors and officers of Limana Equities (the owner of the SIMPHONY) and also directors and officers of Kiparis Inc. (the commercial operator for Solana Shipping, the owner of the MONTE ROSSO).

20. Pursuant to the three management agreements (Exhibits 1-3), Plaintiff undertook to oversee the operational, technical, crewing and insurance management of the three vessels.

21. Clause 3 of the agreements provides:

Subject to the terms and conditions herein provided, during the period of this Agreement, the Managers shall carry out Management Services in respect of the Vessel as agents for and on behalf of the Owners. The Managers shall have authority to take such actions as they may from time to time and in their absolute discretion consider to be necessary to enable them to perform this Agreement in accordance with sound ship management practice.

22. In accordance with sound ship management practice, Plaintiff Palomar expended funds to provide spares and carry out repairs to the vessels to ensure safety and seaworthiness, expenses for which Defendants are ultimately liable.

23. Despite due demand, there remains due and owing to Plaintiff by Defendants the sum of USD 1,042,724.60 in regards to spares and repair costs incurred in connection with the management of the M/T MONTE ROSSO. The MONTE ROSSO has been arrested by Plaintiff in another jurisdiction to obtain security for this claim, and thus, this claim is not the subject of the instant proceedings.

24. Despite due demand, there also remains due and owing to Plaintiff by Defendants the sum of USD 1,115,410.63 in regards to spares and repair costs incurred in connection with the management contract on the M/T SIMPHONY. Attached hereto as Exhibit 8 is a copy of the financial statement reflecting the amount owed.

25. The ship management contracts provide that they are to be governed by English law and that any disputes between the parties are to be resolved by arbitration in London.

26. Plaintiff Palomar specifically reserves its right to arbitrate the substantive matters at issue and has commenced arbitration in London in connection with the amounts owed in regards to the management of the SIMPHONY and the MONTE ROSSO.

27. This action is brought in aid of the London arbitration in regards to the claims pertaining to the management of the SIMPHONY and to obtain security both for the claims as outlined above and for the additional sums which Plaintiff will incur in the way of anticipated attorney fees and arbitral costs in the arbitration, estimated by English solicitors at USD \$426,840.00 (€300,000.00), which is recoverable as part of the Plaintiff's claims under the governing English law. (Attached hereto as Exhibit 9 is a breakdown prepared by English solicitors of the estimated costs to be incurred).

28. This action is also brought to obtain security for interest, estimated at USD \$145,003.38 through the completion of the arbitration (based upon 6.5% for 2 years), which is also recoverable as part of the Plaintiff's claim under the governing English law.

29. Therefore, Plaintiff seeks an attachment pursuant to Rule B in the amount of USD **\$1,687,254.01.**

30. The amounts due under the management contract for the management of the SIMPHONY, as well as the additional amounts due for attorney fees and interest, are the joint and several obligations of all of the named Defendants by virtue of the manner in which these entities have been operated, as outlined above, as each is the alter ego of the other.

31. Upon information and belief, and after investigation, none of the named Defendants can be "found" within this District for the purpose of Rule B of the Supplemental

Rules of Certain Admiralty and Maritime Claims, but Plaintiff is informed that Defendants have, or will shortly have, assets within this District comprising, *inter alia*, cash, funds, escrow funds, credits, debts, wire transfers, electronic funds transfers, accounts, letters of credit, freights, sub-freights, charter hire and/or sub-charter hire, of, belonging to, due or for the benefit of Defendants in the amount of **\$1,687,254.01** (collectively hereinafter, "ASSETS"), including but not limited to ASSETS in Defendants' name or for their benefit, including those in the name of their paying or funding agent Kiparis Inc., at, moving through, or within the possession, custody or control of banking institutions including but not limited to ABN Amro, American Express Bank, Atlantic Bank, BNP Paribas, Bank of America, Citibank NA, Deutsche Bank Trust Co., HSBC, HSBC USA Bank NA, JPMorgan Chase Bank, Standard Chartered Bank, The Bank of New York, Wachovia and/or other institutions or such other garnishees who may be served with a copy of the process of Attachment issued herein.

WHEREFORE, Plaintiff Palomar prays:

- a. That process in due form of law according to the practice of this Court in admiralty and maritime jurisdiction issue against the Defendants, citing them to appear and answer under oath all and singular the matters alleged, failing which a default will be taken against them;
- b. That since none of the named Defendants can be found within this District pursuant to Supplemental Rule B, that all assets of Defendants up to and including the sum of **\$1,687,254.01** may be restrained and attached, including but not limited to any cash, funds, credits, wire transfers, electronic funds transfers, accounts, letters of credit, freights, sub-freights, charter hire, sub-charter hire,

and/or other assets of, belonging to, due or for the benefit of Defendants including but not limited to such assets as may be held, received or transferred in their own name or for their benefit or as may be held, received or transferred for their benefit in their name, including those in the name of its paying or funding agents Kiparis Inc. at, moving through, or within the possession, custody or control of banking institutions including but not limited to: ABN Amro, American Express Bank, Atlantic Bank, BNP Paribas, Bank of America, Citibank NA, Deutsche Bank Trust Co., HSBC, HSBC USA Bank NA, JPMorgan Chase Bank, Standard Chartered Bank, The Bank of New York, Wachovia, and/or any other garnishee(s) upon whom a copy of the Process of Maritime Attachment and Garnishment issued in this action may be served; and

- c. That this Court retain jurisdiction over this matter for purposes of any subsequent enforcement action as may be necessary; and,
- d. For such other, further and different relief as this Court may deem just and proper in the premises.

Dated: New York, New York
November 1, 2007

FREEHILL HOGAN & MAHAR, LLP

Attorneys for Plaintiff

PALOMAR MARITIME INC.

By: 

Peter J. Gutowski (PG 2200)

Gina M. Venezia (GV 1551)

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ATTORNEY VERIFICATION

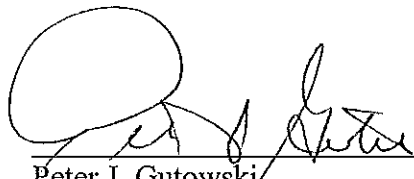
State of New York)
) ss.:
County of New York)

PETER J. GUTOWSKI, being duly sworn, deposes and says as follows:

1. I am a partner with the law firm of Freehill Hogan & Mahar, LLP, attorneys for Plaintiff in this action, I have read the foregoing Verified Complaint and know the contents thereof, and the same is true to the best of my knowledge, information and belief.

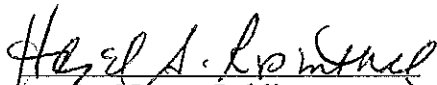
2. The sources of my information and the grounds for my belief are communications, information and documentation provided by our client and/or by English solicitors representing our client.

3. The reason this verification is made by an attorney and not by the Plaintiff is because the Plaintiff is a foreign entity, none of whose officers are presently within this Judicial District.



Peter J. Gutowski

Sworn to before me this
1 day of November 2007



Notary Public

HAZEL S. ROSENTHAL
Notary Public, State of New York
No. 01RO4641178
Qualified in Queens County
Certified in New York County
Commission Expires Dec. 31, 2010

Simphony



Part I

1. Date of Agreement 01/10/06		THE BALTIC AND INTERNATIONAL MARITIME COUNCIL (BIMCO) STANDARD SHIP MANAGEMENT AGREEMENT CODE NAME: "SHIPMAN 98"	
2. Owners (name, place of registered office and law of registry) (Cl. 1)		3. Managers (name, place of registered office and law of registry) (Cl. 1)	
Name Limana Equities Inc.		Name Palomar Maritime Inc.	
Place of registered office Aile Aquilino dela Guardia no 8, Panama		Place of registered office Monrovia, 8 Broad Street, Liberia	
Law of registry Panama		Law of registry Liberia	
4. Day and year of commencement of Agreement (Cl. 2) 01/10/06			
5. Crew Management (state "yes" or "no" as agreed) (Cl. 3.1) YES		6. Technical Management (state "yes" or "no" as agreed) (Cl. 3.2) YES	
7. Commercial Management (state "yes" or "no" as agreed) (Cl. 3.3) NO		8. Insurance Arrangements (state "yes" or "no" as agreed) (Cl. 3.4) YES	
9. Accounting Services (state "yes" or "no" as agreed) (Cl. 3.5) YES		10. Sale or purchase of the Vessel (state "yes" or "no" as agreed) (Cl. 3.6) YES	
11. Provisions (state "yes" or "no" as agreed) (Cl. 3.7) YES		12. Bunkering (state "yes" or "no" as agreed) (Cl. 3.8) NO, but cl. 3.8 to apply	
13. Chartering Services Period (only to be filled in if "yes" stated in Box 7) (Cl. 3.3(i)) NO		14. Owners' Insurance (state alternative (i), (ii) or (iii) of Cl. 6.3) (ii)	
15. Annual Management Fee (state annual amount) (Cl. 8.1) US\$200,000		16. Severance Costs (state maximum amount) (Cl. 8.4(ii)) All Severance costs as per Crew's Employment Agreement	
17. Day and year of termination of Agreement (Cl. 17) 1 year after commencement		18. Law and Arbitration (state alternative 19.1, 19.2 or 19.3; if 19.3 place of arbitration must be stated) (Cl. 19) 19.1	
19. Notices (state postal and cable address, telex and telefax number for serving notice and communication to the Owners) (Cl. 20) Limana Equities Inc. c/o Spectrum Trading and Shipping (STS) Inc. 31 Novinskiy Boulevard, Office 8068, Moscow Russia 123242. Tel: +7 095 98 14788 Fax: +7 0959814789 Email: Tanker@spect.ru		20. Notices (state postal and cable address, telex and telefax number for serving notice and communication to the Managers) (Cl. 20) Palomar Maritime Inc. Kantharou 1 & Akti Miaouli 75, 18537, Athens, Greece Fax: +30 210 4280064, Tlx: 212939 REMI GR, Email: Operations@Palomarmaritime.com	

It is mutually agreed between the party stated in Box 2 and the party stated in Box 3 that this Agreement consisting of PART I and PART II as well as Annexes "A" (Details of Vessel), "B" (Details of Crew), "C" (Budget) and "D" (Associated vessels) attached hereto, shall be performed subject to the conditions contained herein. In the event of a conflict of conditions, the provisions of PART I and Annexes "A", "B", "C" and "D" shall prevail over those of PART II to the extent of such conflict but no further..

Signature(s) (Owners)	Signature(s) (Managers)
	 PALOMAR KANGAPOY I & AKTH MARITIME INC.

This document is a computer generated SHIPMAN 98 form printed by authority of BIMCO. Any insertion or deletion to the form must be clearly visible. In the event of any modification made to the pre-printed text of this document which is not clearly visible, the text of the original BIMCO approved document shall apply. BIMCO assumes no responsibility for any loss, damage or expense as a result of discrepancies between the original BIMCO approved document and this computer generated document.

PART II

"SHIPMAN 98" Standard Ship Management Agreement

1. Definitions	1	for the duties for which they are engaged and are in possession	66
In this Agreement save where the context otherwise requires, the following words and expressions shall have the meanings hereby assigned to them.	2	of valid medical certificates issued in accordance with	67
	3	appropriate flag State requirements. In the absence of	68
	4	applicable flag State requirements the medical certificate shall	69
		be dated not more than three months prior to the respective	70
"Owners" means the party identified in <u>Box 2</u> .	5	Crew members leaving their country of domicile and	71
"Managers" means the party identified in <u>Box 3</u> .	6	maintained for the duration of their service on board the Vessel;	72
"Vessel" means the vessel or vessels details of which are set out in <u>Annex "A"</u> attached hereto.	7	(iv) ensuring that the Crew shall have a command of the English	73
"Crew" means the Master, officers and ratings of the numbers, rank and nationality specified in <u>Annex "B"</u> attached hereto.	8	language of a sufficient standard to enable them to perform	74
"Crew Support Costs" means all expenses of a general nature which are not particularly referable to any individual vessel for the time being managed by the Managers and which are incurred by the Managers for the purpose of providing an efficient and economic management service and, without prejudice to the generality of the foregoing, shall include the cost of crew standby pay, training schemes for officers and ratings, cadet training schemes, sick pay, study pay, recruitment and interviews.	9	their duties safely;	75
"Severance Costs" means the costs which the employers are legally obliged to pay to or in respect of the Crew as a result of the early termination of any employment contract for service on the Vessel.	10	(v) arranging transportation of the Crew, including repatriation;	76
	11	(vi) training of the Crew and supervising their efficiency;	77
	12	(vii) conducting union negotiations;	78
	13	(viii) operating the Managers' drug and alcohol policy unless otherwise agreed.	79
	14		80
	15		
	16	3.2 Technical Management	81
	17	<i>(only applicable if agreed according to <u>Box 6</u>)</i>	82
	18	The Managers shall provide technical management which	83
	19	includes, but is not limited to, the following functions:	84
	20	(i) provision of competent personnel to supervise the	85
	21	maintenance and general efficiency of the Vessel;	86
	22	(ii) arrangement and supervision of dry dockings, repairs,	87
	23	alterations and the upkeep of the Vessel to the standards	88
	24	required by the Owners provided that the Managers shall	89
	25	be entitled to incur the necessary expenditure to ensure	90
	26	that the Vessel will comply with the law of the flag of the	91
	27	Vessel and of the places where she trades, and all	92
	28	requirements and recommendations of the classification	93
	29	society;	94
	30	(iii) arrangement of the supply of necessary stores, spares and	95
	31	lubricating oil;	96
	32	(iv) appointment of surveyors and technical consultants as the	97
	33	Managers may consider from time to time to be necessary;	98
	34	(v) development, implementation and maintenance of a Safety	99
	35	Management System (SMS) in accordance with the ISM	100
		Code (see sub-clauses <u>4.2</u> and <u>5.3</u>).	101
		(vi) all aspects of ISPS compliance	
2. Appointment of Managers	36	3.3 Commercial Management	102
With effect from the day and year stated in <u>Box 4</u> and continuing unless and until terminated as provided herein, the Owners hereby appoint the Managers and the Managers hereby agree to act as the Managers of the Vessel.	37	<i>(only applicable if agreed according to <u>Box 7</u>)</i>	103
	38	The Managers shall provide the commercial operation of the	104
	39	Vessel, as required by the Owners, which includes, but is not	105
	40	limited to, the following functions:	106
	41	(i) providing chartering services in accordance with the Owners'	107
	42	instructions which include, but are not limited to, seeking	108
	43	and negotiating employment for the Vessel and the conclusion	109
	44	(including the execution thereof) of charter parties or other	110
	45	contracts relating to the employment of the Vessel. If such a	111
	46	contract exceeds the period stated in <u>Box 12</u> , consent thereto	112
	47	in writing shall first be obtained from the Owners.	113
	48	(ii) arranging of the proper payment to Owners or their nominees	114
	49	of all hire and/or freight revenues or other monies of	115
		whatever nature to which Owners may be entitled arising	116
		out of the employment of or otherwise in connection with the	117
		Vessel.	118
	50	(iii) providing voyage estimates and accounts and calculating of	119
	51	hire, freights, demurrage and/or despatch moneys due from	120
	52	or due to the charterers of the Vessel;	121
	53	(iv) issuing of voyage instructions;	122
	54	(v) appointing agents;	123
	55	(vi) appointing stewards;	124
	56	(vii) arranging surveys associated with the commercial operation	125
	57	of the Vessel.	126
	58		
	59		
	60		
	61	3.4 Insurance Arrangements	127
	62	<i>(only applicable if agreed according to <u>Box 8</u>)</i>	128
	63	The Managers shall arrange insurances in accordance with	129
	64	Clause 6, on such the terms and conditions as the Owners shall	130
	65	presently applicable to Sellers/Managers	
		have instructed or agreed, in particular regarding conditions	131

PART II

"SHIPMAN 98" Standard Ship Management Agreement

including,		responsibilities imposed by the ISM Code when applicable.	192
insured values, deductibles and franchises, etc.	132		
3.5 Accounting Services	133	6. Insurance Policies	193
<i>(only applicable if agreed according to Box 9)</i>	134	The Owners shall procure, whether by instructing the Managers	194
The Managers shall:	135	under sub-clause 3.4 or otherwise, that throughout the period of	195
(i) establish an accounting system which meets the	136	this Agreement:	196
requirements of the Owners and provide regular accounting	137	6.1 at the Owners' expense, the Vessel is insured for not less	197
services, supply regular reports and records, such accounting	138	than her sound market value or entered for her full gross tonnage,	198
services to be provided by Moore Stephens and all costs to be for		as the case may be for:	199
owner's account		(i) usual hull and machinery marine risks (including crew	200
(ii) maintain the records of all costs and expenditure incurred	139	negligence) and excess liabilities;	201
as well as data necessary or proper for the settlement of	140	(ii) protection and indemnity risks (including pollution risks and	202
accounts between the parties.	141	Crew Insurances); and	203
3.6 Sale or Purchase of the Vessel	142	(iii) war risks (including protection and indemnity and crew risks)	204
<i>(only applicable if agreed according to Box 10)</i>	143	in accordance with the best practice of prudent owners of	205
The Managers shall, in accordance with the Owners' instructions,	144	vessels of a similar type to the Vessel, with first class insurance	206
supervise the sale or purchase of the Vessel, including the	145	companies, underwriters or associations ("the Owners'	207
performance of any sale or purchase agreement, but not	146	Insurances");	208
negotiation of the same.	147	6.2 all premiums and calls on the Owners' Insurances are paid	209
3.7 Provisions (only applicable if agreed according to Box 11)	148	promptly by their due date,	210
The Managers shall arrange for the supply of provisions.	149	6.3 the Owners' Insurances name the Managers and, subject	211
3.8 Bunkering (only applicable if agreed according to Box 12)	150	to underwriters' agreement, any third party designated by the	212
The Managers-Owners shall arrange for the provision of bunker fuel	151	Managers as a joint assured, with full cover, with the Owners	213
of the		obtaining cover in respect of each of the Insurances specified in	214
quality specified by the Owners suitable for the type of the Vessel's	152	sub-clause 6.1:	215
engine as required for the Vessel's trade.		(i) on terms whereby the Managers and any such third party	216
4. Managers' Obligations	153	are liable in respect of premiums or calls arising in connection	217
4.1 The Managers undertake to use their best endeavours to	154	with the Owners' Insurances; or	218
provide the agreed Management Services as agents for and on	155	(ii) if reasonably obtainable, on terms such that neither the	219
behalf of the Owners in accordance with sound ship management	156	Managers nor any such third party shall be under any	220
practice and to protect and promote the interests of the Owners in	157	liability in respect of premiums or calls arising in connection	221
all matters relating to the provision of services hereunder.	158	with the Owners' Insurances; or	222
Provided, however, that the Managers in the performance of their	159	(iii) on such other terms as may be agreed in writing.	223
management responsibilities under this Agreement shall be entitled	160	Indicate alternative (i), (ii) or (iii) in Box 14. If Box 14 is left	224
to have regard to their overall responsibility in relation to all vessels	161	blank then (i) applies.	225
as may from time to time be entrusted to their management and	162	6.4 written evidence is provided, to the reasonable satisfaction	226
in particular, but without prejudice to the generality of the foregoing,	163	of the Managers, of their compliance with their obligations under	227
the Managers shall be entitled to allocate available supplies,	164	Clause 6 within a reasonable time of the commencement of	228
manpower and services in such manner as in the prevailing	165	the Agreement, and of each renewal date and, if specifically	229
circumstances the Managers in their absolute discretion consider	166	requested, of each payment date of the Owners' Insurances.	230
to be fair and reasonable.	167	7. Income Collected and Expenses Paid on Behalf of Owners	231
4.2 Where the Managers are providing Technical Management	168	7.1 All moneys collected by the Managers under the terms of	232
in accordance with sub-clause 3.2, they shall procure that the	169	this Agreement (other than moneys payable by the Owners to	233
requirements of the law of the flag of the Vessel are satisfied and	170	the Managers) and any interest thereon shall be held to the	234
they shall in particular be deemed to be the "Company" as defined	171	credit of the Owners in a separate bank account.	235
by the ISM Code, assuming the responsibility for the operation of	172	7.2 All expenses incurred by the Managers under the terms	236
the Vessel and taking over the duties and responsibilities imposed	173	of this Agreement on behalf of the Owners (including expenses	237
by the ISM Code when applicable.	174	as provided in Clause 8) may be debited against the Owners	238
5. Owners' Obligations	175	in the account referred to under sub-clause 7.1 but shall in any	239
5.1 The Owners shall pay all sums due to the Managers punctually	176	event remain payable by the Owners to the Managers on	240
in accordance with the terms of this Agreement.	177	demand.	241
5.2 Where the Managers are providing Technical Management	178	8. Management Fee	242
in accordance with sub-clause 3.2, the Owners shall:	179	8.1 The Owners shall pay to the Managers for their services	243
(i) procure that all officers and ratings supplied by them or on	180	as Managers under this Agreement an annual management	244
their behalf comply with the requirements of STCW 95;	181	fee as stated in Box 16 which shall be payable by equal	245
(ii) instruct such officers and ratings to obey all reasonable orders	182	Monthly - instalments in advance, the first instalment being	246
of the Managers in connection with the operation of the	183	payable on the commencement of this Agreement (see Clause	247
Managers' safety management system.	184	2 and Box 4) and subsequent instalments being payable every	248
5.3 Where the Managers are not providing Technical Management	185	month.	249
in accordance with sub-clause 3.2, the Owners shall procure that	186	8.2 The management fee shall be subject to an annual review	250
the requirements of the law of the flag of the Vessel are satisfied	187	on the anniversary date of the Agreement and the proposed	251
and that they, or such other entity as may be appointed by them	188	fee shall be presented in the annual budget referred to in sub-	252
and identified to the Managers, shall be deemed to be the	189	clause 9.1.	253
"Company" as defined by the ISM Code assuming the responsibility	190	8.3 The Managers shall, at no extra cost to the Owners, provide	254
for the operation of the Vessel and taking over the duties and	191	their own office accommodation, office staff, facilities and	255
		stationery. Without limiting the generality of Clause 7 the Owners	256

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PART II

"SHIPMAN 98" Standard Ship Management Agreement

persons who are or might be their servants or agents from time to time (including sub-contractors as aforesaid) and all such persons shall to this extent be or be deemed to be parties to this Agreement.	385 386 387 388	owners of any associated vessel, details of which are listed in Annex "D", shall not have been received in the Managers' nominated account within ten-five running days of receipt by the Owners of the Managers written request or if the Vessel is repossessed by the Mortgagees.	445 446 447 448 449
12. Documentation	389	(ii) If the Owners:	450
Where the Managers are providing Technical Management in accordance with sub-clause 3.2 and/or Crew Management in accordance with sub-clause 3.1, they shall make available, upon Owners' request, all documentation and records related to the Safety Management System (SMS) and/or the Crew which the Owners need in order to demonstrate compliance with the ISM Code and STCW 95 or to defend a claim against a third party.	390 391 392 393 394 395 396 397	(a) fail to meet their obligations under sub-clauses 5.2 and 5.3 of this Agreement for any reason within their control, or	451 452 453
		(b) proceed with the employment of or continue to employ the Vessel in the carriage of contraband, blockade running, or in an unlawful trade, or on a voyage which in the reasonable opinion of the Managers is unduly hazardous or improper,	454 455 456 457 458
		the Managers may give notice of the default to the Owners, requiring them to remedy it as soon as practically possible.	459 460
13. General Administration	398	In the event that the Owners fail to remedy it within a reasonable time to the satisfaction of the Managers, the Managers shall be entitled to terminate the Agreement with immediate effect by notice in writing.	461 462 463 464
13.1 The Managers shall handle and settle all claims arising out of the Management Services hereunder and keep the Owners informed regarding any incident of which the Managers become aware which gives or may give rise to claims or disputes involving third parties.	399 400 401 402 403	18.2 Managers' Default	465
13.2 The Managers shall, as instructed by the Owners, bring or defend actions, suits or proceedings in connection with matters entrusted to the Managers according to this Agreement.	404 405 406	If the Managers fail to meet their obligations under Clauses 3 and 4 of this Agreement for any reason within the control of the Managers, the Owners may give notice to the Managers of the default, requiring them to remedy it as soon as practically possible. In the event that the Managers fail to remedy it within a reasonable time to the satisfaction of the Owners, the Owners shall be entitled to terminate the Agreement with immediate effect by notice in writing.	466 467 468 469 470 471 472 473
13.3 The Managers shall also have power to obtain legal or technical or other outside expert advice in relation to the handling and settlement of claims and disputes or all other matters affecting the interests of the Owners in respect of the Vessel.	407 408 409 410	18.3 Extraordinary Termination	474
13.4 The Owners shall arrange for the provision of any necessary guarantee bond or other security.	411 412	This Agreement shall be deemed to be terminated in the case of the sale of the Vessel or if the Vessel becomes a total loss or is declared as a constructive or compromised or arranged total loss or is requisitioned.	475 476 477 478
13.5 Any costs reasonably incurred by the Managers in carrying out their obligations according to Clause 13 shall be reimbursed by the Owners.	413 414 415	18.4 For the purpose of sub-clause 18.3 hereof	479
14. Auditing	416	(i) the date upon which the Vessel is to be treated as having been sold or otherwise disposed of shall be the date on which the Owners cease to be registered as Owners of the Vessel;	480 481 482 483
The Managers shall at all times maintain and keep true and correct accounts and shall make the same available for inspection and auditing by the Owners at such times as may be mutually agreed. On the termination, for whatever reasons, of this Agreement, the Managers shall release to the Owners, if so requested, the originals where possible, or otherwise certified copies, of all such accounts and all documents specifically relating to the Vessel and her operation.	417 418 419 420 421 422 423 424	(ii) the Vessel shall not be deemed to be lost unless either she has become an actual total loss or agreement has been reached with her underwriters in respect of her constructive, compromised or arranged total loss or if such agreement with her underwriters is not reached it is adjudged by a competent tribunal that a constructive loss of the Vessel has occurred.	484 485 486 487 488 489 490
15. Inspection of Vessel	425	18.5 This Agreement shall terminate forthwith in the event of an order being made or resolution passed for the winding up, dissolution, liquidation or bankruptcy of either party (otherwise than for the purpose of reconstruction or amalgamation) or if a receiver is appointed, or if it suspends payment, ceases to carry on business or makes any special arrangement or composition with its creditors.	491 492 493 494 495 496 497
The Owners shall have the right at any time after giving reasonable notice to the Managers to inspect the Vessel for any reason they consider necessary.	426 427 428	18.6 The termination of this Agreement shall be without prejudice to all rights accrued due between the parties prior to the date of termination.	498 499 500
16. Compliance with Laws and Regulations	429		
The Managers will not do or permit to be done anything which might cause any breach or infringement of the laws and regulations of the Vessel's flag, or of the places where she trades.	430 431 432		
17. Duration of the Agreement	433	19. Law and Arbitration	501
This Agreement shall come into effect on the day and year stated in Box 4 and shall continue until the date stated in Box 17.	434 435	19.1 This Agreement shall be governed by and construed in accordance with English law and any dispute arising out of or in connection with this Agreement shall be referred to arbitration in London in accordance with the Arbitration Act 1996 or any statutory modification or re-enactment thereof save to the extent necessary to give effect to the provisions of this Clause.	502 503 504 505 506 507 508
However either party to have the right to terminate this agreement by		The arbitration shall be conducted in accordance with the London Maritime Arbitrators Association (LMAA) Terms current at the time when the arbitration proceedings are commenced.	509 510 511 512
Thereafter it shall continue until terminated by either party giving to the other notice in writing, in which event the Agreement shall terminate upon the expiration of a period of two-three months from the date upon which such notice was given.	436 437 438 439		
18. Termination	440		
18.1 Owners' default	441		
(i) The Managers shall be entitled to terminate the Agreement with immediate effect by notice in writing if any moneys payable by the Owners under this Agreement and/or the	442 443 444		

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PART II

"SHIPMAN 98" Standard Ship Management Agreement

The reference shall be to three arbitrators. A party wishing to refer a dispute to arbitration shall appoint its arbitrator and send notice of such appointment in writing to the other party requiring the other party to appoint its own arbitrator within 14 calendar days of that notice and stating that it will appoint its arbitrator as sole arbitrator unless the other party appoints its own arbitrator and gives notice that it has done so within the 14 days specified. If the other party does not appoint its own arbitrator and give notice that it has done so within the 14 days specified, the party referring a dispute to arbitration may, without the requirement of any further prior notice to the other party, appoint its arbitrator as sole arbitrator and shall advise the other party accordingly. The award of a sole arbitrator shall be binding on both parties as if he had been appointed by agreement. Nothing herein shall prevent the parties agreeing in writing to vary these provisions to provide for the appointment of a sole arbitrator.	513 514 515 516 517 518 519 520 521 522 523 524 525 526 527 528 529 530	final, and for the purposes of enforcing any award, judgement may be entered on an award by any court of competent jurisdiction. The proceedings shall be conducted in accordance with the rules of the Society of Maritime Arbitrators, Inc.	543 544 545 546 547
In cases where neither the claim nor any counterclaim exceeds the sum of USD50,000 (or such other sum as the parties may agree) the arbitration shall be conducted in accordance with the LMAA Small Claims Procedure current at the time when the arbitration proceedings are commenced.	531 532 533 534 535	In cases where neither the claim nor any counterclaim exceeds the sum of USD50,000 (or such other sum as the parties may agree) the arbitration shall be conducted in accordance with the Shortened Arbitration Procedure of the Society of Maritime Arbitrators, Inc. current at the time when the arbitration proceedings are commenced.	548 549 550 551 552 553
19.2 This Agreement shall be governed by and construed in accordance with Title 9 of the United States Code and the Maritime Law of the United States and any dispute arising out of or in connection with this Agreement shall be referred to three persons at New York, one to be appointed by each of the parties hereto, and the third by the two so chosen; their decision or that of any two of them shall be	536 537 538 539 540 541 542	19.3 This Agreement shall be governed by and construed in accordance with the laws of the place mutually agreed by the parties and any dispute arising out of or in connection with this Agreement shall be referred to arbitration at a mutually agreed place, subject to the procedures applicable there.	554 555 556 557 558 559
		19.4 If Box 18 in Part I is not appropriately filled in, sub-clause 19.1 of this Clause shall apply.	560 561
		Note: 19.1, 19.2 and 19.3 are alternatives; indicate alternative agreed in Box 18.	562 563
		20. Notices	564
		20.1 Any notice to be given by either party to the other party shall be in writing and may be sent by fax, telex, registered or recorded mail or by personal service.	565 566 567
		20.2 The address of the Parties for service of such communication shall be as stated in Boxes 19 and 20, respectively.	568 569 570

**ANNEX "A" (DETAILS OF VESSEL OR VESSELS) TO
THE BALTIC AND INTERNATIONAL MARITIME COUNCIL (BIMCO)
STANDARD SHIP MANAGEMENT AGREEMENT - CODE NAME: "SHIPMAN 98"**

Date of Agreement:

01/10/06

Name of Vessel(s):

MT Symphony M

Particulars of Vessel(s):

Built: 1983, by Asakava Ship Building Japan

Panama Flag

Registered in Valletta, Malta

Call Sign: 3FSM9

IMO Nr.: 8216681

Class: N.K.K

GT/NT: 6,481/3,624

DWT: 10,885 MT

LOA: 123.63m, Beam: 18.20m

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**ANNEX "B" (DETAILS OF CREW) TO
THE BALTIC AND INTERNATIONAL MARITIME COUNCIL (BIMCO)
STANDARD SHIP MANAGEMENT AGREEMENT - CODE NAME: "SHIPMAN 98"**

Date of Agreement:

01/10/06

Details of Crew:

Numbers	Rank	Nationality
1	MASTER	PHILIPPINE
1	CH.OFFICER	PHILIPPINE
1	2 ND MATE	PHILIPPINE
1	3 RD MATE	PHILIPPINE
1	CH. ENGINEER	PHILIPPINE
1	2 ND ENGINEER	PHILIPPINE
1	3 RD ENGINEER	PHILIPPINE
1	4 TH ENGINEER	PHILIPPINE
1		
1	EL/CIAN	PHILIPPINE
1	BOSUN	PHILIPPINE
1	PUMPMAN	PHILIPPINE
1	A.B.	PHILIPPINE
1	A.B.	PHILIPPINE
1	A.B.	PHILIPPINE
1	O.S	PHILIPPINE
1	O.S	PHILIPPINE
1	OILERS	PHILIPPINE
1	OILERS	PHILIPPINE
1	OILERS	PHILIPPINE
1	FITTER	PHILIPPINE
1	COOK	PHILIPPINE
	AS STEWARD	PHILIPPINE

**ANNEX "C" (BUDGET) TO
THE BALTIC AND INTERNATIONAL MARITIME COUNCIL (BIMCO)
STANDARD SHIP MANAGEMENT AGREEMENT - CODE NAME: "SHIPMAN 98"**

Date of Agreement:

01/10/06

Managers' Budget for the first year with effect from the Commencement Date of this Agreement:

CREW WAGES	\$700,000
MARINE INSURANCES	\$45,000
P&I AND DEFENSE	\$85,000
STORES (DECK, ENGINE, CABIN, BONDED	\$74,000
REPAIRS / MAINTENANCE	\$100,000
CREW REPLACEMENT AND OTHER EXPENSES INCLUDING MEDICAL	\$30,000
VICTUALLING	\$60,000
FLAG EXPENSES	\$10,000
SPARES	\$70,000
RADIO	\$15,000
GENERAL SUPPLY EXPENSES, OPA 90, VESSELS INSPECTIONS	\$10,000
LUBRICANTS	\$40,000
MANAGEMENT	\$200,000
UNFORSEEN	\$10,000
TOTAL	\$1,449,000

In addition to the above the Voyage expenses must be added.

P&I DEDUCTIBLES	
CARGO CLAIMS	\$ 15,650.00 CARGO VOYAGE
CREW ILLNESS	\$ 5,250.00 PER PORT
CREW INJURY/LOSS OF LIFE	\$ 5,250.00 PER PERSON PER PORT
ALL OTHER CLAIMS	\$ 5,250.00 ANY ONE ACCIDENT OR OCCURANCE

FD&D DEDUCTIBLES	\$ 1,000.00 EACH DISPUTE
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INSURANCE POLICY COVER	
H&M INSURED VALUE	\$ 5 MILLION

DEDUCTIBLE ON H&M INS COVER (\$ 5 MILLION)	\$ 100,000
--	------------

VESSEL INSURED FOR WAR RISK WITH LLOYDS	
H&M INSURANCE	\$ 5 MILLION

All figures about and without guarantee

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**ANNEX "D" (ASSOCIATED VESSELS) TO
THE BALTIC AND INTERNATIONAL MARITIME COUNCIL (BIMCO)
STANDARD SHIP MANAGEMENT AGREEMENT - CODE NAME: "SHIPMAN 98"**

**NOTE: PARTIES SHOULD BE AWARE THAT BY COMPLETING THIS ANNEX "D"
THEY WILL BE SUBJECT TO THE PROVISIONS OF SUB-CLAUSE 18.1(i) OF THIS
AGREEMENT.**

Date of Agreement:

01/10/06

Details of Associated Vessels:

MT Monte Rosso

Built 1987 by Santierul Naval Constanta

Dwt: 88,850 MT

IMO Nr: 8513625


MT Monte Verde

Built 1980 by Hitachi Zosen


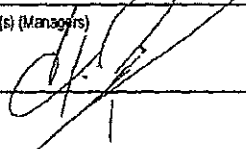
Dwt: 86,993 MT

IMO Nr: 7602960

Spectrum M
- former owner

Approved by the International Ship Managers' Association (ISMA)	1. Date of Agreement 09/01/06	THE BALTIC AND INTERNATIONAL MARITIME COUNCIL (BIMCO) STANDARD SHIP MANAGEMENT AGREEMENT CODE NAME: "SHIPMAN 98"	
	Part I		
Approved by the Japanese Committee of The Japan Shipping Exchange Inc., Tokyo	2. Owners (name, place of registered office and law of registry) (CL 1)	3. Managers (name, place of registered office and law of registry) (CL 1)	
	Name Markus Shipping Ltd Place of registered office Valletta, Malta Law of registry Malta	Name Palomar Maritime Inc. Place of registered office Monrovia, 8 Broad Street, Liberia Law of registry Liberia	
Printed by BIMCO's Idea	4. Day and year of commencement of Agreement (CL 2) 09/01/06	5. Crew Management (state "yes" or "no" as agreed) (CL 3.1) YES	6. Technical Management (state "yes" or "no" as agreed) (CL 3.2) YES
	7. Commercial Management (state "yes" or "no" as agreed) (CL 3.3) NO	8. Insurance Arrangements (state "yes" or "no" as agreed) (CL 3.4) YES	
	9. Accounting Services (state "yes" or "no" as agreed) (CL 3.5) YES	10. Sale or purchase of the Vessel (state "yes" or "no" as agreed) (CL 3.6) YES	
	11. Provisions (state "yes" or "no" as agreed) (CL 3.7) YES	12. Bunkering (state "yes" or "no" as agreed) (CL 3.8) NO, but cl. 3.8 to apply	
	13. Chartering Services Period (only to be filled in if "yes" stated in Box 7) (CL 3.3(i)) NO	14. Owners' Insurance (state alternative (i), (ii) or (iii) of CL 6.3) (ii)	
	15. Annual Management Fee (state annual amount) (CL 8.1) US\$250,000	16. Severance Costs (state maximum amount) (CL 6.4(ii)) All Severance costs as per Crew's Employment Agreement	
	17. Day and year of termination of Agreement (CL 17) 1 year after commencement	18. Law and Arbitration (state alternative 19.1, 19.2 or 19.3; if 19.3 place of arbitration must be stated) (CL 19) 19.1	
	19. Notices (state postal and cable address, telex and telefax number for serving notice and communication to the Owners) (CL 20) Markus Shipping Ltd c/o Spectrum Trading and Shipping (STS) Inc. 31 Novinsky Boulevard, Office 805B, Moscow Russia 123242. Tel: +7 095 98 14788 Fax: +7 095 98 14789 Email: Tanker@spect.ru	20. Notices (state postal and cable address, telex and telefax number for serving notice and communication to the Managers) (CL 20) Palomar Maritime Inc. Kantharou 1 & Akti Miaouli 75, 18537, Athens, Greece Fax: +30 210 4280064, Tlx: 212939 REMI GR. Email: Operations@Palomarmaritime.com	

It is mutually agreed between the party stated in Box 2 and the party stated in Box 3 that this Agreement consisting of PART I and PART II as well as Annexes "A" (Details of Vessel), "B" (Details of Crew), "C" (Budget) and "D" (Associated vessels) attached hereto, shall be performed subject to the conditions contained herein. In the event of a conflict of conditions, the provisions of PART I and Annexes "A", "B", "C" and "D" shall prevail over those of PART II to the extent of such conflict but no further.

Signature(s) (Owners) 	Signature(s) (Managers) 
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PART II

"SHIPMAN 98" Standard Ship Management Agreement

1. Definitions	1	for the duties for which they are engaged and are in possession	66
In this Agreement save where the context otherwise requires,	2	of valid medical certificates issued in accordance with	67
the following words and expressions shall have the meanings	3	appropriate flag State requirements. In the absence of	68
hereby assigned to them.	4	applicable flag State requirements the medical certificate shall	69
		be dated not more than three months prior to the respective	70
"Owners" means the party identified in <u>Box 2</u> .	5	Crew members leaving their country of domicile and	71
"Managers" means the party identified in <u>Box 3</u> .	6	maintained for the duration of their service on board the Vessel;	72
"Vessel" means the vessel or vessels details of which are set	7	(iv) ensuring that the Crew shall have a command of the English	73
out in <u>Annex "A"</u> attached hereto.	8	language of a sufficient standard to enable them to perform	74
"Crew" means the Master, officers and ratings of the numbers,	9	their duties safely;	75
rank and nationality specified in <u>Annex "B"</u> attached hereto.	10	(v) arranging transportation of the Crew, including repatriation;	76
"Crew Support Costs" means all expenses of a general nature	11	(vi) training of the Crew and supervising their efficiency;	77
which are not particularly referable to any individual vessel for	12	(vii) conducting union negotiations;	78
the time being managed by the Managers and which are incurred	13	(viii) operating the Managers' drug and alcohol policy unless	79
by the Managers for the purpose of providing an efficient and	14	otherwise agreed.	80
economic management service and, without prejudice to the	15		
generality of the foregoing, shall include the cost of crew standby	16	3.2 Technical Management	81
pay, training schemes for officers and ratings, cadet training	17	<i>(only applicable if agreed according to <u>Box 6</u>)</i>	82
schemes, sick pay, study pay, recruitment and interviews.	18	The Managers shall provide technical management which	83
"Severance Costs" means the costs which the employers are	19	includes, but is not limited to, the following functions:	84
legally obliged to pay to or in respect of the Crew as a result of	20	(i) provision of competent personnel to supervise the	85
the early termination of any employment contract for service on	21	maintenance and general efficiency of the Vessel;	86
the Vessel,	22	(ii) arrangement and supervision of dry dockings, repairs,	87
"Crew Insurances" means insurances against crew risks which	23	alterations and the upkeep of the Vessel to the standards	88
shall include but not be limited to death, sickness, repatriation,	24	required by the Owners provided that the Managers shall	89
injury, shipwreck unemployment indemnity and loss of personal	25	be entitled to incur the necessary expenditure to ensure	90
effects.	26	that the Vessel will comply with the law of the flag of the	91
"Management Services" means the services specified in sub-	27	Vessel and of the places where she trades, and all	92
clauses 3.1 to 3.8 as indicated affirmatively in Boxes 5 to 12.	28	requirements and recommendations of the classification	93
"ISM Code" means the International Management Code for the	29	society;	94
Safe Operation of Ships and for Pollution Prevention as adopted	30	(iii) arrangement of the supply of necessary stores, spares and	95
by the International Maritime Organization (IMO) by resolution	31	lubricating oil;	96
A.741(18) or any subsequent amendment thereto.	32	(iv) appointment of surveyors and technical consultants as the	97
"STCW 95" means the International Convention on Standards	33	Managers may consider from time to time to be necessary;	98
of Training, Certification and Watchkeeping for Seafarers, 1978,	34	(v) development, implementation and maintenance of a Safety	99
as amended in 1995 or any subsequent amendment thereto.	35	Management System (SMS) in accordance with the ISM	100
		Code (see sub-clauses 4.2 and 5.3).	101
2. Appointment of Managers	36	(vi) all aspects of ISPS compliance	
With effect from the day and year stated in <u>Box 4</u> and continuing	37	3.3 Commercial Management	102
unless and until terminated as provided herein, the Owners	38	<i>(only applicable if agreed according to <u>Box 7</u>)</i>	103
hereby appoint the Managers and the Managers hereby agree	39	The Managers shall provide the commercial operation of the	104
to act as the Managers of the Vessel.	40	Vessel, as required by the Owners, which includes, but is not	105
		limited to, the following functions:	106
3. Basis of Agreement	41	(i) providing chartering services in accordance with the Owners'	107
Subject to the terms and conditions herein provided, during the	42	instructions which include, but are not limited to, seeking	108
period of this Agreement, the Managers shall carry out	43	and negotiating employment for the Vessel and the conclusion	109
Management Services in respect of the Vessel as agents for	44	(including the execution thereof) of charter parties or other	110
and on behalf of the Owners. The Managers shall have authority	45	contracts relating to the employment of the Vessel. If such a	111
to take such actions as they may from time to time in their absolute	46	contract exceeds the period stated in <u>Box 13</u>, consent thereto	112
discretion consider to be necessary to enable them to perform	47	in writing shall first be obtained from the Owners.	113
this Agreement in accordance with sound ship management	48	(ii) arranging of the proper payment to Owners or their nominees	114
practice.	49	of all hire and/or freight revenues or other moneys of	115
		whatsoever nature to which Owners may be entitled arising	116
3.1 Crew Management	50	out of the employment of or otherwise in connection with the	117
<i>(only applicable if agreed according to <u>Box 5</u>)</i>	51	Vessel.	118
The Managers shall provide suitably qualified Crew for the Vessel	52	(iii) providing voyage estimates and accounts and calculating of	119
as required by the Owners in accordance with the STCW 95	53	hire, freight, demurrage and/or despatch moneys due from	120
requirements, provision of which includes but is not limited to	54	or due to the charterers of the Vessel;	121
the following functions:	55	(iv) issuing of voyage instructions;	122
(i) selecting and engaging the Vessel's Crew, including payroll	56	(v) appointing agents;	123
arrangements, pension administration, and insurances for	57	(vi) appointing elevators;	124
the Crew other than those mentioned in <u>Clause 6</u> ;	58	(vii) arranging surveys associated with the commercial operation	125
(ii) ensuring that the applicable requirements of the law of the	59	of the Vessel.	126
flag of the Vessel are satisfied in respect of manning levels,	60		
rank, qualification and certification of the Crew and	61	3.4 Insurance Arrangements	127
employment regulations including Crew's tax, social	62	<i>(only applicable if agreed according to <u>Box 8</u>)</i>	128
insurance, discipline and other requirements;	63	The Managers shall arrange insurances in accordance with	129
(iii) ensuring that all members of the Crew have passed a medical	64	Clause 6, on such the terms and conditions as the Owners shall	130
examination with a qualified doctor certifying that they are fit	65	presently applicable to Sellers/Managers	
		have instructed or agreed, in particular regarding conditions	131

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PART II
"SHIPMAN 98" Standard Ship Management Agreement

Including,		responsibilities imposed by the ISM Code when applicable.	192
insured values, deductibles and franchises, etc.	132		
3.5 Accounting Services	133	6. Insurance Policies	193
<i>(only applicable if agreed according to Box 9)</i>	134	The Owners shall procure, whether by instructing the Managers	194
The Managers shall:	135	under sub-clause 3.4 or otherwise, that throughout the period of	195
(i) establish an accounting system which meets the	136	this Agreement:	196
requirements of the Owners and provide regular accounting	137	6.1 at the Owners' expense, the Vessel is insured for not less	197
services, supply regular reports and records, such accounting	138	than her sound market value or entered for her full gross tonnage,	198
services to be provided by Moore Stephens and all costs to be for		as the case may be for:	199
owner's account		(i) usual hull and machinery marine risks (including crew	200
(ii) maintain the records of all costs and expenditure incurred	139	negligence) and excess liabilities;	201
as well as data necessary or proper for the settlement of	140	(ii) protection and indemnity risks (including pollution risks and	202
accounts between the parties.	141	Crew Insurances); and	203
3.6 Sale or Purchase of the Vessel	142	(iii) war risks (including protection and indemnity and crew risks)	204
<i>(only applicable if agreed according to Box 10)</i>	143	In accordance with the best practice of prudent owners of	205
The Managers shall, in accordance with the Owners' instructions,	144	vessels of a similar type to the Vessel, with first class insurance	206
supervise the sale or purchase of the Vessel, including the	145	companies, underwriters or associations ("the Owners'	207
performance of any sale or purchase agreement, but not	146	Insurances");	208
negotiation of the same.	147	6.2 all premiums and calls on the Owners' Insurances are paid	209
3.7 Provisions (only applicable if agreed according to Box 11)	148	promptly by their due date,	210
The Managers shall arrange for the supply of provisions.	149	6.3 the Owners' Insurances name the Managers and, subject	211
3.8 Bunkering (only applicable if agreed according to Box 12)	150	to underwriters' agreement, any third party designated by the	212
The Managers-Owners shall arrange for the provision of bunker fuel	151	Managers as a joint assured, with full cover, with the Owners	213
of the		obtaining cover in respect of each of the Insurances specified in	214
quality specified by the Owners suitable for the type of the Vessel's	152	sub-clause 6.1:	215
engine as required for the Vessel's trade.		(i) on terms whereby the Managers and any such third party	216
4. Managers' Obligations	153	are liable in respect of premiums or calls arising in connection	217
4.1 The Managers undertake to use their best endeavours to	154	with the Owners' Insurances; or	218
provide the agreed Management Services as agents for and on	155	(ii) if reasonably obtainable, on terms such that neither the	219
behalf of the Owners in accordance with sound ship management	156	Managers nor any such third party shall be under any	220
practice and to protect and promote the interests of the Owners in	157	liability in respect of premiums or calls arising in connection	221
all matters relating to the provision of services hereunder.	158	with the Owners' Insurances; or	222
Provided, however, that the Managers in the performance of their	159	(iii) on such other terms as may be agreed in writing.	223
management responsibilities under this Agreement shall be entitled	160	Indicate alternative (i), (ii) or (iii) in Box 14. If Box 14 is left	224
to have regard to their overall responsibility in relation to all vessels	161	blank then (i) applies.	225
as may from time to time be entrusted to their management and	162	6.4 written evidence is provided, to the reasonable satisfaction	226
in particular, but without prejudice to the generality of the foregoing,	163	of the Managers, of their compliance with their obligations under	227
the Managers shall be entitled to allocate available supplies,	164	Clause 6 within a reasonable time of the commencement of	228
manpower and services in such manner as in the prevailing	165	the Agreement, and of each renewal date and, if specifically	229
circumstances the Managers in their absolute discretion consider	166	requested, of each payment date of the Owners' Insurances.	230
to be fair and reasonable.	167	7. Income Collected and Expenses Paid on Behalf of Owners	231
4.2 Where the Managers are providing Technical Management	168	7.1 All moneys collected by the Managers under the terms of	232
in accordance with sub-clause 3.2, they shall procure that the	169	this Agreement (other than moneys payable by the Owners to	233
requirements of the law of the flag of the Vessel are satisfied and	170	the Managers) and any interest thereon shall be held to the	234
they shall in particular be deemed to be the "Company" as defined	171	credit of the Owners in a separate bank account.	235
by the ISM Code, assuming the responsibility for the operation of	172	7.2 All expenses incurred by the Managers under the terms	236
the Vessel and taking over the duties and responsibilities imposed	173	this Agreement on behalf of the Owners (including expenses	237
by the ISM Code when applicable.	174	as provided in Clause 8) may be debited against the Owners	238
5. Owners' Obligations	175	in the account referred to under sub-clause 7.1 but shall in any	239
5.1 The Owners shall pay all sums due to the Managers punctually	176	event remain payable by the Owners to the Managers on	240
in accordance with the terms of this Agreement.	177	demand.	241
5.2 Where the Managers are providing Technical Management	178	8. Management Fee	242
in accordance with sub-clause 3.2, the Owners shall:	179	8.1 The Owners shall pay to the Managers for their services	243
(i) procure that all officers and ratings supplied by them or on	180	as Managers under this Agreement an annual management	244
their behalf comply with the requirements of STCW 95;	181	fee as stated in Box 15 which shall be payable by equal	245
(ii) instruct such officers and ratings to obey all reasonable orders	182	Monthly - instalments in advance, the first instalment being	246
of the Managers in connection with the operation of the	183	payable on the commencement of this Agreement (see Clause	247
Managers' safety management system.	184	2 and Box 4) and subsequent instalments being payable every	248
5.3 Where the Managers are not providing Technical Management	185	month.	249
in accordance with sub-clause 3.2, the Owners shall procure that	186	8.2 The management fee shall be subject to an annual review	250
the requirements of the law of the flag of the Vessel are satisfied	187	on the anniversary date of the Agreement and the proposed	251
and that they, or such other entity as may be appointed by them	188	fee shall be presented in the annual budget referred to in sub-	252
and identified to the Managers, shall be deemed to be the	189	clause 9.1.	253
"Company" as defined by the ISM Code assuming the responsibility	190	8.3 The Managers shall, at no extra cost to the Owners, provide	254
for the operation of the Vessel and taking over the duties and	191	their own office accommodation, office staff, facilities and	255
		stationery. Without limiting the generality of Clause 7 the Owners	256

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PART II

“SHIPMAN 98” Standard Ship Management Agreement

shall reimburse the Managers for postage and communication expenses, travelling expenses, and other out of pocket expenses properly incurred by the Managers in pursuance of the Management Services.	257	10. Managers' Right to Sub-Contract	318
8.4 In the event of the appointment of the Managers being terminated by the Owners or the Managers in accordance with the provisions of Clauses 17 and 18 other than by reason of default by the Managers, or if the Vessel is lost, sold or otherwise disposed of, the "management fee" payable to the Managers according to the provisions of sub-clause 8.1, shall continue to be payable for a further period of three calendar months as from the termination date. In addition, provided that the Managers provide Crew for the Vessel in accordance with sub-clause 8.1:	258	The Managers shall not have the right to sub-contract any of their obligations hereunder, including those mentioned in sub-clause 3.1, without the prior written consent of the Owners which shall not be unreasonably withheld. In the event of such a sub-contract the Managers shall remain fully liable for the due performance of their obligations under this Agreement.	318
(i) the Owners shall continue to pay Crew Support Costs during the said further period of three calendar months and	259		320
(ii) the Owners shall pay an equitable proportion of any all Severance Costs which may materialize are actually incurred, not exceeding	260		321
the amount stated in Box 16.	261		322
8.5 If the Owners decide to lay-up the Vessel whilst this Agreement remains in force and such lay-up lasts for more than three months, an appropriate reduction of the management fee for the period exceeding three months until one month before the Vessel is again put into service shall be mutually agreed between the parties.	262		323
8.6 Unless otherwise agreed in writing all discounts and commissions obtained by the Managers in the course of the management of the Vessel shall be credited to the Owners.	263		324
	264		
9. Budgets and Management of Funds	265	11. Responsibilities	325
9.1 The Managers shall present to the Owners annually a budget for the following twelve months in such form as the Owners require. The budget for the first year hereof is set out in Annex "C" hereto. Subsequent annual budgets shall be prepared by the Managers and submitted to the Owners not less than three months before the anniversary date of the commencement of this Agreement (see Clause 2 and Box 4).	266	11.1 Force Majeure - Neither the Owners nor the Managers shall be under any liability for any failure to perform any of their obligations hereunder by reason of any cause whatsoever of any nature or kind beyond their reasonable control.	326
9.2 The Owners shall indicate to the Managers their acceptance and approval of the annual budget within one month-week of presentation and in the absence of any such indication the Managers shall be entitled to assume that the Owners have accepted the proposed budget.	267	11.2 Liability to Owners - (i) Without prejudice to sub-clause 11.1, the Managers shall be under no liability whatsoever to the Owners for any loss, damage, delay or expense of whatsoever nature, whether direct or indirect, (including but not limited to loss of profit arising out of or in connection with detention of or delay to the Vessel) and howsoever arising in the course of performance of the Management Services UNLESS same is proved to have resulted solely from the negligence, gross negligence or wilful default of the Managers or their employees, or agents or sub-contractors employed by them in connection with the Vessel, in which case (save where loss, damage, delay or expense has resulted from the Managers' personal act or omission committed with the intent to cause same or recklessly and with knowledge that such loss, damage, delay or expense would probably result) the Managers' liability for each incident or series of incidents giving rise to a claim or claims shall never exceed a total of ten-times the annual management fee payable hereunder.	327
9.3 Following the agreement of the budget, the Managers shall prepare and present to the Owners their estimate of the working capital requirement of the Vessel and the Managers shall each month up-date this estimate. The Owners shall provide an amount of US\$250,000 to the Managers for the working capital requirements of the vessel, which amount to be deposited in the Managers' account. Based thereon, the Managers shall each month request the Owners in writing for the funds required to make up any deficit of the US\$250,000 working capital deposit, as when required,	268	(ii) Notwithstanding anything that may appear to the contrary in this Agreement, the Managers shall not be liable for any of the actions of the Crew, even if such actions are negligent, grossly negligent or wilful, except only to the extent that they are shown to have resulted from a failure by the Managers to discharge their obligations under sub-clause 3.1, in which case their liability shall be limited in accordance with the terms of this Clause 11.	328
to run the Vessel for the ensuing month, including the payment of any occasional or extraordinary item of expenditure, such as emergency repair costs, additional insurance premiums, bunkers or provisions. Such funds shall be received by the Managers within ten running banking days after the receipt by the Owners of the Managers' written or fax or telex or e-mail request and shall be held to the credit of the Owners in a separate bank account.	269	11.3 Indemnity - Except to the extent and solely for the amount therein set out that the Managers would be liable under sub-clause 11.2, the Owners hereby undertake to keep the Managers and their employees, agents and sub-contractors indemnified and to hold them harmless against all actions, proceedings, claims, demands or liabilities whatsoever or howsoever arising which may be brought against them or incurred or suffered by them arising out of or in connection with the performance of the Agreement, and against and in respect of all costs, losses, damages and expenses (including legal costs and expenses on a full indemnity basis) which the Managers may suffer or incur (either directly or indirectly) in the course of the performance of this Agreement.	329
9.4 The Managers shall produce a comparison between budgeted and actual income and expenditure of the Vessel in such form as required by the Owners monthly or at such other intervals as mutually agreed.	270	11.4 "Himalaya" - It is hereby expressly agreed that no employee or agent of the Managers (including every sub-contractor from time to time employed by the Managers) shall in any circumstances whatsoever be under any liability whatsoever to the Owners for any loss, damage or delay of whatsoever kind arising or resulting directly or indirectly from any act, neglect or default on his part while acting in the course of or in connection with his employment and, without prejudice to the generality of the foregoing provisions in this Clause 11, every exemption, limitation, condition and liberty herein contained and every right, exemption from liability, defence and immunity of whatsoever nature applicable to the Managers or to which the Managers are entitled hereunder shall also be available and shall extend to protect every such employee or agent of the Managers acting as aforesaid and for the purpose of all the foregoing provisions of this Clause 11 the Managers are or shall be deemed to be acting as agent or trustee on behalf of and for the benefit of all	330
9.5 Notwithstanding anything contained herein to the contrary, the Managers shall in no circumstances be required to use or commit their own funds to finance the provision of the Management Services.	271		331
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PART II
"SHIPMAN 98" Standard Ship Management Agreement

persons who are or might be their servants or agents from time to time (including sub-contractors as aforesaid) and all such persons shall to this extent be or be deemed to be parties to this Agreement.	385 386 387 388	owners of any associated vessel, details of which are listed in Annex "D", shall not have been received in the Managers' nominated account within ten-five running days of receipt by the Owners of the Managers written request or if the Vessel is repossessed by the Mortgagees.	445 448 447 448 449
12. Documentation	389	(ii) If the Owners:	450
Where the Managers are providing Technical Management in accordance with sub-clause 3.2 and/or Crew Management in accordance with sub-clause 3.1, they shall make available, upon Owners' request, all documentation and records related to the Safety Management System (SMS) and/or the Crew which the Owners need in order to demonstrate compliance with the ISM Code and STCW 95 or to defend a claim against a third party.	390 391 392 393 394 395 396 397	(a) fail to meet their obligations under sub-clauses 5.2 and 5.3 of this Agreement for any reason within their control, or (b) proceed with the employment of or continue to employ the Vessel in the carriage of contraband, blockade running, or in an unlawful trade, or on a voyage which in the reasonable opinion of the Managers is unduly hazardous or improper,	451 452 453 454 455 456 457 458
13. General Administration	398	the Managers may give notice of the default to the Owners, requiring them to remedy it as soon as practically possible.	459 460
13.1 The Managers shall handle and settle all claims arising out of the Management Services hereunder and keep the Owners informed regarding any incident of which the Managers become aware which gives or may give rise to claims or disputes involving third parties.	399 400 401 402 403	In the event that the Owners fail to remedy it within a reasonable time to the satisfaction of the Managers, the Managers shall be entitled to terminate the Agreement with immediate effect by notice in writing.	461 462 463 464
13.2 The Managers shall, as instructed by the Owners, bring or defend actions, suits or proceedings in connection with matters entrusted to the Managers according to this Agreement.	404 405 406	18.2 Managers' Default	465
13.3 The Managers shall also have power to obtain legal or technical or other outside expert advice in relation to the handling and settlement of claims and disputes or all other matters affecting the interests of the Owners in respect of the Vessel.	407 408 409 410	If the Managers fail to meet their obligations under Clauses 3 and 4 of this Agreement for any reason within the control of the Managers, the Owners may give notice to the Managers of the default, requiring them to remedy it as soon as practically possible. In the event that the Managers fail to remedy it within a reasonable time to the satisfaction of the Owners, the Owners shall be entitled to terminate the Agreement with immediate effect by notice in writing.	466 467 468 469 470 471 472
13.4 The Owners shall arrange for the provision of any necessary guarantee bond or other security.	411 412	18.3 Extraordinary Termination	473 474
13.5 Any costs reasonably incurred by the Managers in carrying out their obligations according to Clause 13 shall be reimbursed by the Owners.	413 414 415	This Agreement shall be deemed to be terminated in the case of the sale of the Vessel or if the Vessel becomes a total loss or is declared as a constructive or compromised or arranged total loss or is requisitioned.	475 476 477 478
14. Auditing	416	18.4 For the purpose of sub-clause 18.3 hereof	479
The Managers shall at all times maintain and keep true and correct accounts and shall make the same available for inspection and auditing by the Owners at such times as may be mutually agreed. On the termination, for whatever reasons, of this Agreement, the Managers shall release to the Owners, if so requested, the originals where possible, or otherwise certified copies, of all such accounts and all documents specifically relating to the Vessel and her operation.	417 418 419 420 421 422 423 424	(i) the date upon which the Vessel is to be treated as having been sold or otherwise disposed of shall be the date on which the Owners cease to be registered as Owners of the Vessel; (ii) the Vessel shall not be deemed to be lost unless either she has become an actual total loss or agreement has been reached with her underwriters in respect of her constructive, compromised or arranged total loss or if such agreement with her underwriters is not reached it is adjudged by a competent tribunal that a constructive loss of the Vessel has occurred.	480 481 482 483 484 485 486 487 488 489 490
15. Inspection of Vessel	425	18.5 This Agreement shall terminate forthwith in the event of an order being made or resolution passed for the winding up, dissolution, liquidation or bankruptcy of either party (otherwise than for the purpose of reconstruction or amalgamation) or if a receiver is appointed, or if it suspends payment, ceases to carry on business or makes any special arrangement or composition with its creditors.	491 492 493 494 495 496 497
The Owners shall have the right at any time after giving reasonable notice to the Managers to inspect the Vessel for any reason they consider necessary.	426 427 428	18.6 The termination of this Agreement shall be without prejudice to all rights accrued due between the parties prior to the date of termination.	498 499 500
16. Compliance with Laws and Regulations	429	19. Law and Arbitration	501
The Managers will not do or permit to be done anything which might cause any breach or infringement of the laws and regulations of the Vessel's flag, or of the places where she trades.	430 431 432	19.1 This Agreement shall be governed by and construed in accordance with English law and any dispute arising out of or in connection with this Agreement shall be referred to arbitration in London in accordance with the Arbitration Act 1996 or any statutory modification or re-enactment thereof save to the extent necessary to give effect to the provisions of this Clause.	502 503 504 505 506 507 508
17. Duration of the Agreement	433	The arbitration shall be conducted in accordance with the London Maritime Arbitrators Association (LMAA) Terms current at the time when the arbitration proceedings are commenced.	509 510 511 512
This Agreement shall come into effect on the day and year stated in Box 4 and shall continue until the date stated in Box 17. However either party to have the right to terminate this agreement by	434 435		
Thereafter it shall continue until terminated by either party giving to the other notice in writing, in which event the Agreement shall terminate upon the expiration of a period of two-three months from the date upon which such notice was given.	436 437 438 439		
18. Termination	440		
18.1 Owners' default	441		
(i) The Managers shall be entitled to terminate the Agreement with immediate effect by notice in writing if any moneys payable by the Owners under this Agreement and/or the	442 443 444		

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PART II
"SHIPMAN 98" Standard Ship Management Agreement

<p>The reference shall be to three arbitrators. A party wishing to refer a dispute to arbitration shall appoint its arbitrator and send notice of such appointment in writing to the other party requiring the other party to appoint its own arbitrator within 14 calendar days of that notice and stating that it will appoint its arbitrator as sole arbitrator unless the other party appoints its own arbitrator and gives notice that it has done so within the 14 days specified. If the other party does not appoint its own arbitrator and give notice that it has done so within the 14 days specified, the party referring a dispute to arbitration may, without the requirement of any further prior notice to the other party, appoint its arbitrator as sole arbitrator and shall advise the other party accordingly. The award of a sole arbitrator shall be binding on both parties as if he had been appointed by agreement. Nothing herein shall prevent the parties agreeing in writing to vary these provisions to provide for the appointment of a sole arbitrator.</p> <p>In cases where neither the claim nor any counterclaim exceeds the sum of USD50,000 (or such other sum as the parties may agree) the arbitration shall be conducted in accordance with the LMAA Small Claims Procedure current at the time when the arbitration proceedings are commenced.</p> <p>19.2 This Agreement shall be governed by and construed in accordance with Title 9 of the United States Code and the Maritime Law of the United States and any dispute arising out of or in connection with this Agreement shall be referred to three persons of New York, one to be appointed by each of the parties hereto, and the third by the two so chosen; their decision or that of any two of them shall be</p>	<p>513 514 515 516 517 518 519 520 521 522 523 524 525 526 527 528 529 530 531 532 533 534 535 536 537 538 539 540 541 542</p>	<p>final, and for the purposes of enforcing any award, judgement may be entered on an award by any court of competent jurisdiction. The proceedings shall be conducted in accordance with the rules of the Society of Maritime Arbitrators, Inc.</p> <p>In cases where neither the claim nor any counterclaim exceeds the sum of USD50,000 (or such other sum as the parties may agree) the arbitration shall be conducted in accordance with the Shortened Arbitration Procedure of the Society of Maritime Arbitrators, Inc. current at the time when the arbitration proceedings are commenced.</p> <p>19.3 This Agreement shall be governed by and construed in accordance with the laws of the place mutually agreed by the parties and any dispute arising out of or in connection with this Agreement shall be referred to arbitration at a mutually agreed place, subject to the procedures applicable there.</p> <p>19.4 If Box 18 in Part I is not appropriately filled in, sub-clause 19.1 of this Clause shall apply.</p> <p>Note: 19.1, 19.2 and 19.3 are alternatives; indicate alternative agreed in Box 18.</p> <p>20. Notices</p> <p>20.1 Any notice to be given by either party to the other party shall be in writing and may be sent by fax, telex, registered or recorded mail or by personal service.</p> <p>20.2 The address of the Parties for service of such communication shall be as stated in Boxes 19 and 20, respectively.</p>	<p>543 544 545 546 547 548 549 550 551 552 553 554 555 556 557 558 559 560 561 562 563 564 565 566 567 568 569 570</p>
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